IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.306 OF 2002

M/s.Janata Matching Palace .. Appellant.
V/s.
The Commissioner of Income Tax
Mumbai City-XXII, Mumbai .. Respondent.

Mr.K.B. Bhujale i/b. S.V. Pikale for the appellant.

CORAM : R.M. LODHA, &
J.P. DEVADHAR, JJ.

DATED : 3RD SEPTEMBER, 2004.

P.C. :

Heard Mr.Bhujale, the learned counsel for the appellant.

2. The tribunal in the impugned order observed thus :

> "The learned CIT (A) has also completely ignored the fact that the assessee has itself shown the GP rate at 40.58% for the assessment year 1991-92 and one of the partners had also admitted during the course of search that the GP rate on average is 25%. The AO also found that the GP rate on some items was more than 50%. The undisclosed stock found during the course of search was valued at Rs.4,81,402.81, whereas the assessee had disclosed stock of Rs.1,78,870/- on 22.4.87 as per the books. Thus, including the undisclosed stock to the stock disclosed by the assessee, he found the GP rate at 36.91% for the assessment year 1988-89. Thus, he adopted the GP rate at

> 37% which was based on the actual figures of stock found during the course of search and the admission made by one of the partners. The AO also kept in view, the GP rate disclosed by the assessee at 40.58% for the assessment year 1991-92. Therefore, the GP rate adopted by the AO at 37% is fully justified. The AO has made the estimation which is having close nexus to the material on record and the same cannot be said to be arbitrary."

3. In our considered view the tribunal did not commit any error of law in affirming the order of the assessing officer which is based on best judgment.

4. The learned counsel for the appellant endeavoured to refer to the arithmetical aspects but in our view the said aspects do not give rise to any question of law.

5. No substantial question of law arises in this appeal. The appeal is dismissed in limine.

(R.M. LODHA, J.)

(J.P. DEVADHAR, J.)